

REMARKS

Claims 1-49 were pending when the present Office Action was mailed on March 13, 2009. In this response, no claims have been amended, canceled or added. Accordingly, claims 1-49 are currently pending.

In the Office Action dated March 13, 2009 claims 1-49 were finally rejected. More specifically, the status of the application in light of this Office Action is as follows:

- (A) Claims 1, 3, 6, 8, 12, 14, 21, 23, 29, 31, 42, 44 and 47 were rejected under 35 U.S.C. § 102(e) as being anticipated Anderson et al. (USPN 7,158,754);
- (B) Claims 2, 4, 5, 13, 15, 16, 22, 24, 26, 30, 32, 33, 43 and 45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson et al. (USPN 7,158,754) in view of Amoral-Moriya (USPN 6,487,516);
- (C) Claims 7, 9, 17, 25 and 34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson et al. (USPN 7,158,754) in view of Goldfine et al. (Pub. No.: 2004/0021461);
- (D) Claims 10, 11, 18, 20, 28, 35, 37, 46 and 49 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson et al. (USPN 7,158,754) in view of Govari et al. (USPN 6,177,792);
- (E) Claims 19, 27, 36 and 48 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson et al. (USPN 7,158,754) in view of Dumoulin (USPN 6,201,987);

In response to applicants' response to first non-final Office Action including submittal of a Declaration of J. Nelson Wright under 37 CFR § 1.131, the Examiner acknowledged that the Declaration provided sufficient evidence showing that the invention was conceived prior to July 1, 2003. (Office Action, ¶138) However, the Examiner further requested additional documentation to establish actual dates relied on to establish diligence (Office Action, ¶139); clear and concise evidence of reasonable diligence in reducing the invention to practice prior to the entry in the field of Anderson (Office Action, ¶141); and a date showing reduction to practice before December 31, 2003 (Office Action, ¶145). Applicants respectfully submit that the Amended Declaration

of J. Nelson Wright under 37 CFR § 1.131 provides the additional documentation as requested by the Examiner to establish actual reduction to practice of the invention prior to the entry in the field of Anderson.

In order to address any further questions from the Examiner, applicants respectfully request an Examiner's Interview prior to any substantive action or Office Action in the pending case.

A. Section 102(e) Rejection under Anderson

Claims 1, 3, 6, 8, 12, 14, 21, 23, 29, 31, 42, 44 and 47 were rejected under 35 U.S.C. § 102(e) as being anticipated by Anderson. With regard to the Anderson reference, an Amended 37 C.F.R. § 1.131 Declaration by J. Nelson Wright, co-inventor, is filed concurrently herewith. This Declaration establishes actual reduction to practice prior to the effective date of the reference and thus removes Anderson as a reference under §102(e). Accordingly, the §102(e) rejections of claims 1, 3, 6, 8, 12, 14, 21, 23, 29, 31, 42, 44 and 47 under Anderson are no longer appropriate and should be withdrawn.

B. Section 103(a) Rejections

Claims 2, 4, 5, 13, 15, 16, 22, 24, 26, 30, 32, 33, 43 and 45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson in view of Amorai-Moriya. Claims 7, 9, 17, 25, and 34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson in view of Goldfine. Claims 10, 11, 18, 20, 28, 35, 37, 46 and 49 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson in view of Govari. Claims 19, 27, 36 and 48 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson in view of Dumoulin. Claims 38 and 41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson in view of Dumoulin. Claim 39 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson in view of Dumoulin and further in view of Goldfine. Claim 40 was rejected

under 35 U.S.C. § 103(a) as being unpatentable over Anderson in view of Dumoulin and further in view of Govari. As described above, the attached 37 C.F.R. § 1.131 Declaration removes Anderson as a 102(e) reference against the pending claims. Furthermore, none of the secondary references provide support for a §103 rejection in the absence of the primary reference, namely, Anderson. Accordingly, applicants respectfully request that the Section 103(a) rejections of these claims be withdrawn.

In view of the foregoing, applicants believe the pending claims comply with 35 U.S.C. § 112 and are patentable over the applied art. The applicants accordingly request reconsideration of the application and respectfully submit that claims are in condition for allowance. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to contact Susan Betcher at (206) 359-6088.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0665, under Order No. 341148019US from which the undersigned is authorized to draw.

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Respectfully submitted,

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